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UNITED STATES GOVERNMENT

Memorandum

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY DATE: June 24, 1970 DATE 5 MAY 1982
RDS☐or XDS☐EXT. DATE
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TO : L/E - Mr. Willis

FROM : E/AN - Philip C. Narten

SUBJECT: CIVAIR: Italy Agreement

I attach a copy of the Press Release that was issued on June 22 when the Italy Agreement had been signed. You will note on page 13, that we have reproduced the memorandum concerning provisional entry into force of the agreement as to date of signature.

On June 23 I had a telephone call from Wilbur Wright in the Economic Section of our embassy in Rome. He told me the Italians are not anxious to have this memorandum publicized because it was giving the Foreign Office Legal Advisors qualms about its constitutionality. I told Wilbur that the cat was already out of the bag but that I doubted very much that any press publicity would result from it. However, in view of the Foreign Ministry's diffidence, I undertook to consult with the Office of Legal Advisor to see whether we could omit this memorandum from the agreement package that will be transmitted to the ICAO.

Your opinion would be appreciated. I will be happy to seek further information from the embassy if required.

cc. Amembassy Rome

after checking with L/T, I called Narten and told him that we couldn't omit the memo from the package going to ICAO. It will be published in TIAS, which will then be sent to UN and ICAO for registration.
SCG 6/26/70

E/AN:PCNarten:lt 6/24/70

Clearances:
EUR/AIS - Mr. White
E/OA/AN - Mr. Styles

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DEPARTMENT OF STATE

FOR THE PRESS

JUNE 22, 1970 No. 186

UNITED STATES AND ITALY SIGN AIR TRANSPORT AGREEMENT

An air transport agreement between the Government of the United States and the Government of the Italian Republic was signed today in Rome. The Agreement, which provides for commercial air links between the two countries, was signed on behalf of the United States by Ambassador Graham Martin, and on behalf of the Italian Government by the Honorable Aldo Moro, Minister of Foreign Affairs. The document supersedes the air transport agreement between the United States and Italy of February 6, 1948, which expired on May 30, 1967, as a result of its denunciation by Italy.

The new agreement provides for expanded routes and air services between the two countries. Italian airlines may serve up to seven cities in the United States, namely, Boston, New York, Chicago, Philadelphia, Washington, Detroit, and Los Angeles or San Francisco, and these services may be operated via four intermediate points. United States airlines may serve the Italian cities of Milan and Rome and a choice of Turin, Pisa or Naples for cargo and mail services. These services may be operated via intermediate points in seven European countries and beyond Italy to eighteen countries in Europe and the Near, Middle and Far East.

Now that US-Italy air services are covered by intergovernmental agreement, the airlines of both countries will be able to expand and improve their services, such as by operating larger capacity aircraft and increasing the number of all-cargo services.

Texts of the Agreement, route schedules, and related exchanges of notes follow:

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AIR TRANSPORT AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE ITALIAN REPUBLIC

The Government of the United States of America and the Government of the Italian Republic,

Recognizing the increasing importance of international air travel between the two countries and desiring to conclude an Agreement which will assure its continued development in the common welfare,

Have agreed as follows:

Article 1

For the purposes of the present Agreement:

A. "Agreement" shall mean this Agreement and the annexed Route Schedule, and any amendments thereto.

B. "Aeronautical authorities" shall mean, in the case of the United States of America, the Civil Aeronautics Board or any person or agency authorized to perform the functions exercised at the present time by the Civil Aeronautics Board; and in the case of Italy, the Directorate General of Civil Aviation of the Ministry of Transport and Civil Aviation or any person or agency authorized to perform the functions exercised at present by the Directorate General of Civil Aviation.

C. "Designated airline" shall mean an airline that one Contracting Party has notified the other Contracting Party to be an airline which will operate a specific route or routes listed in the Route Schedule to this Agreement. Such notification shall be communicated in writing, through diplomatic channels.

D. "Territory", in relation to a State, shall mean the land areas under the sovereignty, suzerainty, protection, jurisdiction or trusteeship of that State, and territorial water adjacent thereto.

E. "Air service" shall mean any scheduled air service performed by aircraft for the public transport of passengers, mail or cargo, separately or in combination.

F. "International air service" shall mean an air service which passes through the air space over the territory of more than one State.

G. "Stop for non-traffic purposes" shall mean a landing for any purpose other than taking on or discharging passengers, cargo or mail.

NARA Date 7-30

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Article 2

Each Contracting Party grants to the other Contracting Party rights necessary for the conduct of air services by the designated airline or airlines as follows: the rights of transit, of stops for non-traffic purposes, and of commercial entry and departure for international traffic in passengers, cargo, and mail, separately or in combination, at the points in its territory named on each of the routes specified in the appropriate paragraph of the Route Schedule of this Agreement.

Article 3

Air service on a specified route may be inaugurated by an airline or airlines of one Contracting Party at any time after that Contracting Party has designated such airlines for that route and the other Contracting Party has granted the appropriate operating permission. Such other Contracting Party shall, subject to Article 4, grant this permission with a minimum of procedural delay provided that the designated airline or airlines may be required to qualify before the competent aeronautical authorities of that Contracting Party, under the laws and regulations normally applied by those authorities, before being permitted to engage in the operations contemplated in this Agreement.

Article 4

A. Each Contracting Party reserves the right to withhold, suspend or revoke the operating permission referred to in Article 3 of this Agreement with respect to an airline designated by the other Contracting Party, or to impose conditions on such permission, in the event that:

1. such airline fails to qualify under the laws and regulations normally applied by the aeronautical authorities of that Contracting Party;

2. such airline fails to comply with the laws and regulations referred to in Article 5 of this Agreement; or

3. that Contracting Party is not satisfied that substantial ownership and effective control of such airline are vested in nationals of the other Contracting Party.

B. Unless immediate action is essential to prevent infringement of the laws and regulations referred to in Article 5 of this Agreement, the right to suspend or revoke such permission shall be exercised only after consultation with the other Contracting Party.

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A. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the airline or airlines designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into or departure from, and while within the territory of the first Contracting Party.

B. The laws and regulations of one Contracting Party relating to the admission to or departure from its territory of passengers, crew or cargo of aircraft, such as regulations relating to entry, clearance, immigration, passports, customs, and quarantine shall be complied with by or on behalf of such passengers, crew, or cargo of the other Contracting Party upon entrance into or departure from, and while within the territory of the first Contracting Party.

Article 6

Certificates of airworthiness, certificates of competency and licenses issued or rendered valid by one Contracting Party, and still in force, shall be recognized as valid by the other Contracting Party for the purpose of operating the routes and services provided for in this Agreement, provided that the requirements under which such certificates or licenses were issued or rendered valid are equal to or above the minimum standards which may be established pursuant to the Convention on International Civil Aviation. Each Contracting Party reserves the right, however, to refuse to recognize, for the purpose of flight above its own territory, certificates of competency and licenses granted to its own nationals by the other Contracting Party.

Article 7

Each Contracting Party may impose or permit to be imposed just and reasonable charges for the use of public airports and other facilities under its control. Each of the Contracting Parties agrees, however, that these charges shall not be higher than the charges imposed for the use of such airports and facilities by its national aircraft engaged in similar international services.

Article 8

A. Aircraft of carriers designated by either Contracting Party which are engaged in air transport services provided for in the present agreement, shall be permitted to enter and depart from the territories of the other Contracting Party without payment of customs duties, the inspection fees and any other charge or tax.

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B. Each Contracting Party shall, on the basis of strict reciprocity, grant full exemption to the air transport companies designated by the other Contracting Party from import restrictions and from the payment of customs duties, inspection fees and any other charges or taxes imposed on fuels, lubricants, consumable technical supplies, spare parts (including engines), regular onboard equipment, stores and other products intended for the exclusive use of the aircraft that such companies use in the air transport services provided for in the present agreement. Such customs and tax exemptions shall apply to the items:

(1) introduced in the territories of either Contracting Party and intended to be used on board of the aircraft of the companies designated by the other Contracting Party;

(2) located on board the aircraft of the companies designated by either Contracting Party arriving in and departing from the territories of the other Contracting Party;

(3) taken on board the aircraft of the companies designated by either Contracting Party in the territories of the other Contracting Party and intended for the exclusive use of such aircraft.

C. The items which will enjoy customs and tax privileges under the provisions of the preceding paragraph may also be used or consumed in the course of the flights above the territories of the Contracting Party which has granted such privileges, but shall not be used for purposes other than air transport services. They shall be re-exported in cases where they are not used for such services, unless they are leased or transferred to another air transport company enjoying the same privileges, or have been granted customs entry (nationalization) in accordance with the regulations in effect in the territories of the Contracting Party concerned. Pending their use, consumption or other disposition, such items shall remain under customs control.

D. Benefits mentioned in the previous Paragraphs shall apply to the fullest extent possible, and in any case within the limits permitted by National regulations, to materials constituting technical ground equipment introduced in the territory of one Contracting Party for services of assistance to the aircraft belonging to the designated airlines of the other Contracting Party.

E. The privileges provided for in the present article shall be subject to compliance with the procedures normally in effect within the territories of the Contracting Party granting them, and shall not extend to charges collected for services rendered.

Article 9

A. There shall be a fair and equal opportunity for the airlines of each Contracting Party to operate on any route covered by this Agreement.

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B. In the operation by the airlines of either Contracting Party of the air services described in this Agreement, the interest of the airlines of the other Contracting Party shall be taken into consideration so as not to affect unduly the services which the latter provide on all or part of the same routes.

C. The air services made available to the public by the airlines operating under this Agreement shall bear a close relationship to the requirements of the public for such services.

D. Services provided by a designated airline under the present Agreement shall retain as their primary objective the provision of capacity adequate to the traffic demands between the country of which such airline is a national and the countries of ultimate destination of the traffic. The right to embark or disembark on such services international traffic destined for and coming from third countries at a point or points on the routes specified in this Agreement shall be applied in accordance with the general principles of orderly development to which both Contracting Parties subscribe and shall be subject to the general principle that capacity should be related:

1. to traffic requirements between the country of origin and the countries of ultimate destination of the traffic;

2. to the requirements of through airline operation; and,

3. to the traffic requirements of the area through which the airline passes, after taking account of local and regional services.

E Neither Contracting Party shall unilaterally impose any restriction on the airline or airlines of the other Contracting Party with respect to capacity, frequency, scheduling or type of aircraft employed in connection with services over any of the routes specified in this Agreement. In the event that one of the Contracting Parties believes that the operations conducted by an airine of the other Contracting Party have been inconsistent with the standards and principles set forth in Article 9, it may request consultations pursuant to Article 11 of the Agreement for the purpose of reviewing the operations in question to determine whether they are in conformity with said standards and principles.

Article 10

A. All rates to be charged by an airline of one Contracting Party for carriage to or from the territory of the other Contracting Party shall be established at reasonable levels, due regard being paid to all relevant factors, such as costs of operation, reasonable profit, and the rates charged by any other airlines, as well as the characteristics of each service. Such rates shall be subject to the approval of the aeronautical authorities of the Contracting Parties, who shall act in accordance with their obligations under this Agreement, within the limits of their legal powers.

NARA Date 1-24-94

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B. Any rate proposed to be charged by an airline of either Contracting Party for carriage to or from the territory of the other Contracting Party, shall, if so required, be filed by such airline with the aeronautical authorities of the other Contracting Party at least thirty (30) days before the proposed date of introduction unless the Contracting Party with whom the filing is to be made permits filing on shorter notice. The aeronautical authorities of each Contracting Party shall use their best efforts to insure that the rates charged and collected conform to the rates filed with either Contracting Party, and that no airline rebates any portion of such rates by any means, directly or indirectly, including the payment of excessive sales commissions to agents or the use of unrealistic currency conversion rates.

C. It is recognized by both Contracting Parties that during any period for which either Contracting Party has approved the traffic conference procedures of the International Air Transport Association, or other association of international air carriers, any rate agreements concluded through these procedures and involving an airline or airlines of that Contracting Party will be subject to the approval of the aeronautical authorities of that Contracting Party.

D. If a Contracting Party, on receipt of the notification referred to in paragraph B above, is dissatisfied with the rate proposed, it shall so inform the other Contracting Party at least fifteen (15) days prior to the date that such rate would otherwise become effective, and the Contracting Parties shall endeavor to reach agreement on the appropriate rate.

E. If a Contracting Party upon review of an existing rate charged for carriage to or from its territory by an airline or airlines of the other Contracting Party is dissatisfied with that rate, it shall so notify the other Contracting Party and the Contracting Parties shall endeavor to reach agreement on the appropriate rate.

F. In the event that an agreement is reached pursuant to the provisions of paragraph D or E, each Contracting Party will exercise its best efforts to put such rate into effect.

G. If:

(1) under the circumstances set forth in paragraph D no agreement can be reached prior to the date that such rate would otherwise become effective, or

(2) under the circumstances set forth in paragraph E no agreement can be reached prior to the expiration of sixty (60) days from the date of notification,

then the Contracting Party raising the objection to the rate may take such steps as it may consider necessary to prevent the inauguration or the continuation of the service in question at the rate complained of; provided, however, that the Contracting Party raising the objection shall not require the charging of a rate higher than the lowest rate charged by its own airline or airlines for comparable service between the same points.

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H. When in any case under paragraphs D and E of this Article the aeronautical authorities of the two Contracting Parties cannot agree within a reasonable time upon the appropriate rate after consultation initiated by the complained of one Contracting Party concerning the proposed rate or an existing rate of the airline or airlines of the other Contracting Party, upon the request of either, the terms of Article 12 of this Agreement shall apply. In rendering its decision or award, the arbitral tribunal shall be guided by the principles laid down in this Article.

I. (i) Each designated airline has the right to engage in the sale of air transportation in the territory of the other Contracting Party directly and in its discretion, through its agents. Such airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies of other countries.

(ii) Each designated airline has the right to convert and remit to its country local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted promptly and without restrictions at the rate of exchange in effect for the sale of transportation at the time such revenues are presented for conversion and remittance, and shall be exempted from taxation to the fullest extent permitted by national law. If a Contracting Party requires the submission of applications for conversion and remittance, the airlines of the other Contracting Party shall be permitted to file such applications, as often as weekly, free of burdensome or discriminatory documentary requirements.

Article 11

A. Either Contracting Party may at any time request consult on the interpretation, application or amendment of this Agreemer consultations shall begin within a period of sixty (60) days fr date the other Contracting Party receives the request.

B. Amendments of this Agreement, other than those pertair the Route Schedule, will come into force in the same manner as t Agreement comes into force.

C. Amendments the Route Schedule will come into effect after approval in accordan with the domestic laws and procedures of each Contracting Party on the date of an exchange of diplomatic notes.

Article 12

A. Any dispute with respect to matters covered by this Agreement not satisfactorily adjusted through consultation, shall, upon request of either Contracting Party, be submitted to arbitration in accordance with the procedures set forth herein.

B. Arbitration shall be by a tribunal of three arbitrators constituted as follows:

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(1) One arbitrator shall be named by each Contracting Party within 60 days of the date of delivery by either Contracting Party to the other of a request for arbitration. Within 30 days after such period of 60 days, the two arbitrators so designated shall by agreement designate a third arbitrator, who shall not be a national of either Contracting Party.

(2) If the third arbitrator is not agreed upon in accordance with subparagraph (1) above, either Contracting Party may request the President of the Council of the International Civil Aviation Organization to designate the necessary arbitrator.

C. Each Contracting Party shall use its best efforts consistent with its national law to put into effect any decision or award of the arbitral tribunal.

D. The expenses of the arbitral tribunal, including the fees and expenses of the aribtrators, shall be shared equally by the Contracting Parties.

Article 13

This Agreement and all amendments thereto shall be registered with the International Civil Aviation Organization.

Article 14

Either of the Contracting Parties may at any time notify the other of its intention to terminate the present Agreement. Such a notice shall be sent simultaneously to the International Civil Aviation Organization. This Agreement shall terminate one year after the date on which the notice of termination is received by the other Contracting Party, unless withdrawn before the end of this period by agreement between the Contracting Parties. Should the other party not acknowledge receipt, the notification will be considered as having been received fourteen days subsequent to the date of its receipt by the International Civil Aviation Organization.

Article 15

The present Agreement shall enter into force on the 15th day following the date of the appropriate exchange of Notes covering the Italian instrument of ratification.

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In witness whereof, the undersigned, being duly authorized by their respective Governments, have signed the present Agreement.

Done in duplicate at Rome in the English and Italian languages, both texts being equally authentic, this 22 day of June, 1970.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

Graham A. Martin

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:

Aldo Moro

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ROUTE SCHEDULE

UNITED STATES

A. An airline or airlines designated by the Government of the United States shall be entitled to operate air services on each of the routes specified, in both directions, and to make scheduled landings in the territory of Italy at the points specified in this Paragraph:

From the United States via intermediate points in Ireland, the United Kingdom, France, Federal Republic of Germany, Switzerland, Portugal and Spain to:

a. Milan, Rome and one of the following: Turin or Pisa or Naples.

b. Rome and beyond to Greece, Turkey, Lebanon, Israel, Syria, United Arab Republic, Saudi Arabia, Iran, Pakistan, India, Ceylon, Burma, Thailand, Malaysia, Cambodia, Viet Nam, Mainland China, and Hong Kong.

NOTES:

(1) Flights will serve one of the following as the last point of departure or first point of arrival in the United States:
For combination services: Boston, New York, Philadelphia, Baltimore, Washington, Chicago, Detroit, Los Angeles, San Francisco, Portland, Seattle and San Juan.

For all-cargo services: Boston, New York, Philadelphia, Chicago, Detroit and San Francisco.

The airline or airlines of the United States may serve additional points as the last point of departure or first point of arrival but before such services commence the two Parties will conclude appropriate consultations. The purpose of such consultations will be to agree whether such new services would imbalance the economic benefits available under the Route Schedule in favor of the United States, and, if this is the case, to determine appropriate compensation for Italy to restore a balance of economic benefits available to the two Parties.

(2) No rights are granted to carry local, connecting or stopover traffic between points in Italy.

(3) All-cargo services shall terminate in Italy.

(4) In each of the above mentioned countries beyond Rome only one point may be served, except India, where three points may be served, and Turkey, Burma, Cambodia, Viet Nam and Mainland China, where two points may be served.

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(5) One of the following points in Italy may be served at one time: Turin or Naples or Pisa, for all-cargo services only. After the initial selection is made, one substitution may be made at any time with six months notice through diplomatic channels. Thereafter, any further substitution may be made only at intervals of no less than three years, upon six months notice through diplomatic channels.

ITALY

B. An airline or airlines designated by the Government of the Italian Republic shall be entitled to operate air services on each of the routes specified, in both directions, and to make scheduled landings in the territory of the United States at the points specified in this Paragraph:

From Italy via intermediate points in France or Spain; Ireland or Portugal; the United Kingdom; and one point in Canada to:

1. New York
2. Boston and Detroit
3. Boston, Philadelphia and Washington
4. Chicago
5. One of the following:
   a. Washington and Los Angeles; or
   b. Chicago and Los Angeles; or
   c. Detroit and San Francisco.

NOTES:

(1) Flights will serve one of the following as the last point of departure or first point of arrival in Italy:
For combination services: Rome and Milan.

For all-cargo services: Rome, Milan, Pisa and Turin.

The airline or airlines of Italy may serve additional points as the last point of departure or first point of arrival but before such services commence the two Parties will conclude appropriate consultations. The purpose of such consultations will be to agree whether such new services would imbalance the economic benefits available under the Route Schedule in favor of Italy, and, if this is the case, to determine appropriate compensation for the United States to restore a balance of economic benefits available to the two Parties.

(2) No rights are granted to carry local, connecting or stopover traffic between points in the United States.

(3) Only three United States points may be served by all-cargo services, i.e., Boston, New York, Chicago, with co-terminals as follows: Boston and New York; and New York and Chicago.

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(4) Only four intermediate countries may be served at one time: (1) the United Kingdom; (2) one point in Canada; (3) either France or Spain; (4) either Portgual or Ireland. In addition, only one of the following coterminal combinations, Washington and Los Angeles, or Chicago and Los Angeles, or Detroit and San Francisco, may be served at one time. The selection of one among the three co-terminal combinations and the selection between France or Spain, and between Portugal or Ireland will be made in accordance with the following procedure: After the initial selection, one substitution may be made at any time with six months notice through diplomatic channels. Thereafter, any further substitutions may be made only at intervals of no less than three years, upon six months notice through diplomatic channels.

(5) Only one intermediate point may be served on any one flight.

C. Points in any of the specified routes may at the option of the designated airline be omitted on any or all flights, including points in the territory of the other Party.

* * * * *

MEMORANDUM

With reference to the Air Agreement signed on today's date, the Contracting Parties agree that pending the exchange of Diplomatic Notes as provided in Article 15, the said Agreement shall be placed provisionally in operation as of the date of signature.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:
Graham A. Martin

FOR THE GOVERNMENT OF THE ITALIAN REPUBLIC:
Aldo Moro

* * * * *

Note from American Ambassador to the Foreign Minister
June 22, 1970

I have the honor to refer to the Air Transport Agreement between the Governments of the United States of America and the Italian Republic which was signed on today's date.

In the course of the consultations between aviation delegations representing the two Governments, held in Rome from April 14 to

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May 21, 1970, leading to the conclusion of this Agreement, certain understandings were reached on Behind the Gateway services and Change of Gauge. These understandings are as follows:

1. It was agreed that the airline or airlines of one Contracting Party may make a change of gauge in the territory of the other Contracting Party provided that:

a. carriage "beyond" the point of change of gauge will be performed by a single aircraft of capacity equal to or less (in the case of services out-bound from the homeland) or equal to or more (in the case of services inbound to the homeland) than that of the arriving aircraft, and

b. aircraft for such "beyond" carriage will be scheduled only in coincidence with the incoming aircraft (with the same flight number) to insure true and genuine continuing service.

2. It was agreed that the airline or airlines of each Contracting Party may operate services to and from points in the airlines' homeland behind the initial point of arrival or final point of departure as a through-plane service without change in flight number.

If the above understandings are acceptable to the Government of the Italian Republic, I have the honor to propose that this note together with Your Excellency's reply to that effect, shall be regarded as constituting an understanding between the two Governments effective with the date of your reply.

Graham A. Martin
Ambassador of the United States
of America

* * * * *

Note from Foreign Minister to the American Ambassador

June 22, 1970

I have the honor to acknowledge receipt of your note of June 22, 1970, which reads as follows:

(TEXT OF US NOTE)

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In reply, I h the honor to inform Your Excellency that the Government of the Italian Republic is in agreement with the contents of your note and confirms that your note and this reply constitute an understanding between our twc Governments as from today.

/s/ Aldo Moro
Foreign Minister of the
Italian Republic

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